Serial No. 10/769,226
Docket No. CM 2597C
Response date September 6, 2005
Reply to Office Action of May 6, 2005

REMARKS

Status of claims

Applicants thank the Examiner for the consideration given to the present application. Claims 1-22 and 29 are pending in the present application. Claims 23-28 have been withdrawn without prejudice as being drawn to a non-elected invention. Claim 29 has been added, support of which may be found in the specification and drawings. No new matter has been added.

Election/Restriction

Applicants, by this response, affirm the provisional election made with traverse of Group I, claims 1-22 by Joan Cunningham during a telephone conversation with the Examiner by making an election with traverse of Group I, claims 1-22. Since the limitations of independent claim 1 and 3 are found within the independent method claims 23 and 25 and dependent claims 24 and 26-28 depend from claims 23 and 25, Applicants submit that the burden on the Examiner would be minimal and thus respectfully traverse the restriction requirement. Applicants request that upon the allowance of claims 1-22 that claims 23-28 be rejoined. However, to expedite prosecution of the present application on its merits, Applicants have withdrawn claims 23-28 without prejudice as being drawn to a non-elected invention.

Rejections Under 35 U.S.C. §103

Claims 1-22 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Souter et al. WO 02/00557 A2 or Souter et al. U.S. Patent Number 6,827,874, both the references optionally in view of Williamson Jr. U.S. Patent Number 3,325,014. The Examiner alleges that both Souter et al. references teach composition, methods, and kits for purifying and clarifying contaminated drinking water, including all of Applicants' limitations except that Souter et al. do not disclose the function presence of Applicants' component (iii) which is an oxidant system providing catalytic or autocatalytic oxidation of soluble Mn(II) to MnO2. Applicants respectfully traverse this rejection of claims 1-22.

Applicants submit that neither Souter et al. WO 02/00557 A2 (the '557 Application) nor Souter et al. U.S. Patent Number 6,827,874 (the '874 Patent) are proper prior art references under 35 USC §103. The present application is a continuation of PCT Application US 02/23808, filed

on July 26, 2002, which in turn, claims priority to priority application GB 0118749.1, filed on August 8, 2001. The undersigned will submit the certified copy of the GB priority application. Applicants note that the present application and the two Souter et al. references (the '557 Application and the '874 Patent) were, at the time the present invention was made, owned by, or subject to an obligation of assignment to, the Procter & Gamble Co. See for Example the assignee data on the face of the '874 Patent, the common representative data on the face of the '557 Application, and the assignment document recorded in the present application at Reel/Frame No. 015138/0368, recorded on September 14, 2004. Accordingly, Applicants respectfully submit that the '557 Application and the '874 Patent do not qualify as prior art references under 35 U.S.C. §103(a) because (i) the present application was filed on or after November 29, 1999 and (ii) the '557 Application and the '874 Patent only qualify as prior art under 35 U.S.C. §102(e). Since the '557 Application and the '874 Patent do not qualify as references under 35 U.S.C. §103(a), Applicants respectfully request the rejections of claims 1-22 to be withdrawn.

Rejection under Non-Statutory Double Patenting

Claims 1-12 and 14-22 have been rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-19 of U.S. Patent 6,827,874. Also, claims 1-22 have been provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 25-33 of copending Application No. 10/371,864. Applicants respectfully traverse these rejections because the claims of the present invention are patentably distinct from the claims of the cited patents and patent applications.

However, to simplify the issues in the present application, Applicants assert that the appropriate Terminal Disclaimers over the one U.S. patent and the copending application will be submitted in a forthcoming paper. In submitting these Terminal Disclaimers, Applicants state for the record that these Disclaimers are not an admission of obviousness in view of the cited U.S. patent or applications. *Quad Envtl. Corp. v. Union San. Dist.*, 20 USPQ2d 1392 (Fed. Cir. 1991). Therefore, Applicants respectfully request withdrawal of the obviousness-double patenting rejections.

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Priority

Applicants would like to thank the Examiner for acknowledging the Applicants' claim for foreign priority based on an application GB 0118749.1, filed on August 1, 2001. The Examiner noted that the Applicants had not filed a certified copy of the GB application as required by 35 U.S.C. §119(b). Accordingly, Applicants submit that a certified copy of the GB application will be submitted in a forthcoming paper as required by 35 U.S.C. §119(b).

In addition the Examiner stated that a claim for priority under 35 U.S.C. §119(a)-(d) cannot be based on the GB application, since the United States application (the present application) was filed more than twelve months thereafter. Applicants point out that the present application is a continuation of the PCT Application US 02/23808, filed on July 26, 2002, which in turn, claims priority to GB 0118749.1, filed on August 8, 2001. Thus, the PCT Application US 02/23808 was filed within one year of the GB application and Applicants have properly claimed priority to the August 1, 2001 filing date of the GB 0118749.1 priority application.

CONCLUSION

Applicants respectfully submit that the present application is in condition for allowance. The Examiner is encouraged to contact the undersigned to resolve efficiently any formal matters or to discuss any aspects of the application or of this response. Otherwise, early notification of allowable subject matter is respectfully solicited.

Respectfully submitted,
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